

Dr. Richard Lee June 6, 2003

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1 IN THE UNITED STATES BANKRUPTCY COURT FOR THE
2 DISTRICT OF DELAWARE

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4 IN RE:

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6 W.R. GRACE, et al.,

Chapter 11

01-01139 (JKF)

6

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Debtors.

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DEPOSITION OF: DR. RICHARD J. LEE

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DATE: June 6, 2003
Friday, 9:17 a.m.

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LOCATION: REED SMITH, LLP
435 Sixth Avenue
Pittsburgh, PA 15219
412-288-3131

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TAKEN BY: Claimants

22

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REPORTED BY: G. Donavich, RPR, CRR
Notary Public
AKF Reference No. 75810

24

25

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1 Q. Okay. It looks like the analysis -- it appears
2 the analysis was done by PLM using the EPA
3 method of the determination of asbestos in bulk
4 building materials?

5 A. Correct.

6 Q. Looks like, also, that the analyst measured
7 both the amount of asbestiform tremolite and
8 also the amount of cleavage fragments. Is that
9 correct?

10 A. In the coarse, yes.

11 Q. Is this a weight percent measurement that was
12 done?

13 A. Yes.

14 Q. Okay. And the results are reported on Page 4
15 for the asbestiform amphiboles. Is that
16 correct?

17 A. That's correct.

18 Q. And the results were as high as 2.59 percent of
19 asbestiform amphiboles. Is that correct?

20 A. That's correct.

21 Q. That's for an entire sample for all different
22 layers of the sample?

23 A. Correct.

24 Q. In fact, the samples, top, middle, and bottom,
25 the amount, the total amount of asbestiform

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1 loading was going to be, so we collected
2 multiple short-term samples and composite --

3 Q. The 7402 method was also used. Correct?

4 A. That's correct.

5 Q. And that has a ratio that's done with the
6 PCM 7400 method?

7 A. Yes.

8 Q. What is the purpose for that?

9 A. I don't know. What do you mean?

10 Q. What is the purpose for coming up with that
11 ratio?

12 A. That's what OSHA says to do.

13 Q. Would you expect to see a fairly constant ratio
14 of PCM fibers of testing in the same home?

15 A. No. It's dust.

16 Q. When you say "dust" --

17 A. I expect to see variability, particularly in an
18 attic. You got all kinds of cellulose and --

19 Q. Attics, obviously, are very dusty, are they
20 not?

21 A. Yeah, with or without attic insulation.

22 Q. You expect to see dust on surfaces throughout.
23 Correct?

24 A. Yes.

25 Q. And with attic insulation, that's a very dusty

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1 product, is it not?

2 A. I think it's considered dusty, yes.

3 Q. What would cause a variation in the ratio from
4 one sample to another?

5 A. Humidity, moisture, activity, distance,
6 fluctuations.

7 Q. But these are samples that are collected side
8 by side, are they not?

9 A. Yeah.

10 Q. In fact, are they actually collected from the
11 same, sometimes analyzed from the same filter,
12 or different filters?

13 A. Different filter.

14 Q. So there's two --

15 A. No. They're sequential.

16 Q. How far apart are these samples collected
17 distancewise?

18 A. One side or the other.

19 Q. You would expect that they would be pretty
20 close to the same number, wouldn't you?

21 A. I expect that they are what they are. This is
22 not a homogeneous -- it's a turbulent
23 atmosphere you're trying to create.

24 Q. What kind of variation would you expect?

25 A. I don't have an expectation. Make the

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1 measurements and see.

2 Q. You expect to see some variation when you're
3 sampling for asbestos from one location to
4 another side by side. Correct?

5 A. There's natural variation, because you're
6 counting small quantities of fibers.

7 Q. You also are rendering opinions regarding dust
8 testing. Correct?

9 MR. RESTIVO: Do you have a --

10 THE WITNESS: Are you changing gears
11 here?

12 BY MR. TURKEWITZ:

13 Q. A little bit. I'm going to go through this
14 real quick.

15 A. Yeah. As a general proposition.

16 Q. Do you agree that dust testing can be used to
17 determine the presence or absence of asbestos
18 on a surface?

19 A. Sure.

20 Q. Do you agree that dust testing can also be used
21 to determine the source of the asbestos on that
22 surface?

23 A. At least in some cases.

24 Q. In this case when you were dealing with Libby
25 amphiboles, you could determine that. Correct?

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1 A. Most likely.

2 Q. Are you aware that EPA used the ASTM dust test
3 method for sampling dust at Libby?

4 A. Yep.

5 Q. And you're aware that EPA used it as a
6 decision-making tool to determine whether or
7 not it was asbestos in dust in homes with ZAI?

8 A. You'd have to ask EPA that. I don't know that
9 answer.

10 Q. Are you aware that they used the ASTM dust test
11 method in homes where Libby miners once worked
12 to determine the presence of asbestos in those
13 homes?

14 A. I don't know.

15 Q. Are you aware that EPA used the indirect method
16 for air sampling?

17 A. Yeah, in some cases.

18 Q. In what cases did they use the indirect method?

19 A. It's a little bit hard to tell. I don't know
20 exactly. The protocol said not to use it.

21 Q. And, Dr. Lee, you have performed dust testing,
22 have you not?

23 A. Sure.

24 Q. Your laboratory has analyzed dust samples on
25 behalf of clients. Correct?

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1 Start counting stuff for a screening
2 method for between twenty-five and
3 twenty-five-to one aspect ratio, less than a
4 half micron in diameter in bundles, and you'll
5 get -- you'll develop a viable screening
6 procedure for asbestos.

7 MR. RESTIVO: That's all I have.

8 - - - -

9 RE-EXAMINATION

10 - - - -

11 BY MR. TURKEWITZ:

12 Q. Dr. Lee, you were just talking about dust
13 testing that your company is doing. How many
14 dust samples have you analyzed in the last year
15 for building owners?

16 A. I don't know the answer.

17 Q. Hundreds?

18 A. Oh, I would think so, yeah.

19 Q. You would think so?

20 A. Yes.

21 Q. Thousands?

22 A. I doubt thousands, but ---

23 Q. Hundreds?

24 A. Yes.

25 Q. Now, the cases that Mr. Restivo was talking